

To: Swenson, Peter[swenson.peter@epa.gov]
From: Pallesen, Reginald
Sent: Thur 10/17/2013 2:50:46 PM
Subject: FW: Rio Tinto Mine, Road, Mill Project

fyi

From: Addison, Frederick W., III [mailto:raddison@munsch.com]
Sent: Wednesday, October 09, 2013 10:06 AM
To: Pallesen, Reginald
Subject: Rio Tinto Mine, Road, Mill Project

Morning Reg, hope you are well-

Last Thursday counsel for Huron Mountain Club attended a public meeting on a segment of the

road project being constructed by the Marquette County Road Commission (MCRC) on behalf of Rio Tinto.

Representatives of MDEQ conducted the meeting;

Although responses to comment were not taken during the meeting, MDEQ representatives responded to questions on

an informal basis after the meeting.

During that informal session, Mr. Fulcher of MDEQ told the local counsel for HMC the US EPA had approved the construction of the road project

in segments, and only cared about the "total impacts".

As I believe you know, we have been objecting to the project, *inter alia*, because of segmentation and the failure to evaluate all impacts.

In that context, we have also objected on the basis that MCRC has obtained segmented major/minor permits-instead of a comprehensive major permit,

and that an EIS/EIA should be performed for the Mine, the Road, and the Mill-because

they are all connected actions.

Lastly, we continue to object to the project because construction is underway, and all of the permits have not yet been obtained.

As you probably know in *Sierra v. Marsh*, 872 F.2d 497, 504 (1st Cir. 1989); Justice Breyer, then on the First Circuit described

this type of illegal permitting process as a “bureaucratic steam roller”.

On a factual basis, MCRC and MDEQ constantly change the parameters as well as the “total impacts” for the project.

By way of example, the permit application disclosed 3.01 acres of impacts to wetlands; the Public Notice for the hearing stated 3.7 acres impacted.

At the meeting last Thursday the impacted acreage call had increased to 4.4 acres-an increase of over 25% from the original estimate.

Stream impacts are vaguely identified, if at all; mitigation for stream impacts is unknown.

And at least a portion of the wetlands impacted are forested-as were the wetlands associated with the vetoed CR 595 alternative.

What is the mitigation plan for the additional impacts? We don't know because the impacts continue to increase and the permitting process is being manipulated-

some would say subverted.

My questions are:

Has US EPA told MDEQ the road project can proceed in a segmented fashion, without all of the proper permits and analyses being performed

prior to construction?

What review of the project will be left for US EPA if the project is completed piecemeal, with changing impacts and prior to the issuance of the necessary permits.

Or, put another way, should I just include US EPA as another wayward, state or federal

agency defendant in the next law suit we file concerning this essentially unregulated Mine, Road, Mill project.?

Thank you for your consideration of these issues.

I would appreciate a response.

Rick Addison

Counsel for HMC

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